

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

United States Court of Appeals
Fifth Circuit

FILED

November 5, 2008

Charles R. Fulbruge III
Clerk

No. 08-40643

Conference Calendar

UNITED STATES OF AMERICA

Plaintiff-Appellee

v.

JOSE MARIA ECHAVARRIA-ESPINOZA

Defendant-Appellant

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 7:08-CR-202-1

Before DAVIS, STEWART, and DENNIS, Circuit Judges.

PER CURIAM:*

Appealing the Judgment in a Criminal Case, Jose Maria Echavarría-Espinoza raises arguments that are foreclosed by *United States v. Garcia-Mendez*, 420 F.3d 454, 457 (5th Cir.2005), which held that a conviction under TEX. PENAL CODE ANN. § 30.02(a)(1) for burglary of a habitation is a crime of violence for purposes of U.S.S.G. § 2L1.2 because it is equivalent to the enumerated offense of burglary of a dwelling and *United States v. Cardenas-Cardenas*, ___ F.3d ___, No. 08-40210, 2008 WL 4353084 (5th Cir. Sept. 25, 2008), which held that *James v. United States*, 127 S. Ct. 1586 (2007) does not

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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undermine our conclusions in Garcia-Mendez. The Government's motion for summary affirmance is GRANTED, and the judgment of the district court is AFFIRMED.